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Summary record of the 2514th meeting
Held at Headquarters, New York, on Tuesday, 18 March 2008, at 3 p.m.

Chairperson: Mr. Rivas Posada

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Tunisia (*continued*)

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08-27519 (E)

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Tunisia (continued)
(CCPR/C/TUN/5, CCPR/C/TUN/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Tunisia took places at the Committee table.*

2. **The Chairperson** invited the members of the delegation to address the remaining questions on the list of issues (CCPR/C/TUN/Q/5/Add.1).

3. **Ms. Souayhi** (Tunisia) referring to question 21 regarding minority rights and specifically the issue of religious freedom in Tunisia, said that all religious minorities, both Christian and Jewish, were guaranteed full freedom of worship, under chapter 5 of the Constitution and the very tolerant body of laws on the matter. The activities of the 14 Roman Catholic parishes were regulated by a convention between the State and the Vatican. All Tunisian citizens, regardless of culture, religion, conviction, colour or sex, enjoyed the same freedoms. The religious peace that reigned in Tunisia was a precondition for the general peace in the society. The Muslim majority was by tradition respectful of all minority religions. The Ministry of Religious Matters — significantly, not "of the Islamic faith" — provided financial assistance for the maintenance of all churches and mosques and for their cemeteries. There was no mention of religion on an individual's identity document. Education on tolerance, inclusiveness and the right to be different was part of the curriculum at all levels, from the elementary schools to the universities.

4. Christians who married Muslims could freely exercise their own religion under 2005 legislation on coexistence and tolerance; a new university faculty on dialogue among religions had been established in 2001 and a research centre on civilizations and cultures in 2003; and various symposiums and proclamations fostered peace and religious freedom. Tunisia was a modern Arab Islamic country, unlike some others in the Arab world. A trend towards fundamentalism, especially in sensitive areas like the rights of women, had led the Government to take action to prevent a fundamentalist ideology from taking over the country, and its decisions had been consistent with articles 18 and 27 of the Covenant.

5. **Mr. Bismuth** (Tunisia) said that, from his experience as a Jewish citizen of Tunisia, proud of both his heritages, he could testify to the changes that had taken place since independence. After careers as a businessman and an administrator in different fields, he had spent the last 40 years in government service and was now honoured to be serving in the Senate. Throughout his life he had always been free to exercise his rights actively. Tunisia's accession to the Covenant had simply ratified the existing state of things. The word tolerance was too mild with respect to religious freedom in the country: the Government demanded that its citizens respect all religions, whose celebrations it encouraged and often sponsored. Jews, Christians and Muslims were all free to practice their faiths, and their ways of life reflected their cultural identities, creating a diversity that the Government favoured.

6. **Mr. Khemakhem** (Tunisia), observing that his Government attached particular importance to fostering a human rights culture and highlighting the principles of the Covenant, said, with reference to question 22, that it had set up specialized courses on human rights for judges, police officers and prison authorities, which reviewed the provisions of all the international human rights instruments and stressed human rights law.

7. Turning to question 23, he said that Tunisia was making an effort to disseminate the provisions of the Covenant and to publicize the Committee's concluding observations, for it valued its recommendations and comments. In the preparation of its reports to the Committee and the other treaty bodies, the Government always tried to include as broad a range of non-governmental organizations as possible — representing journalists, workers, women, proponents of the rights of the child and so on — in the process.

8. **Mr. Tekkari** (Tunisia) specified that the Government, having found the mechanisms in place inadequate, was establishing a unit under the direction of the Human Rights Coordinator within the Ministry of Justice and Human Rights, which in coordination with other ministries and with NGOs in the field would be responsible for following up on the Committee's recommendations and seeing that they were implemented.

9. , **Mr. Khalil**, returning to question 14 of the list of issues, asked what action would be taken by a judge if in the course of a trial a defendant stated that his confession had been forced.

10. Regarding question 15, there had been a number of encouraging developments relating to freedom of opinion and expression: offences such as defamation had been abolished in order to prevent the abuse of journalists legitimately exercising their profession; many private newspapers and broadcasts were flourishing; and, especially since the 2006 amendments to the Press Code, the number of opposition papers was growing, as was the financial aid given them by the Government — a fact which had attracted attention abroad. Nevertheless, one was struck by the relatively large number of alleged violations of freedom of expression, such as those documented in the 2002 report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2002/106), which clearly supported the contention that there was a wide gap in Tunisia between law and practice.

11. The delegation had maintained, in commenting on question 16, that the Government placed no restriction on electronic news or websites except for those that compromised human rights; but reliable international NGOs said that such a justification was used precisely to curtail the legitimate activities of human rights defenders or opposition parties, whose websites were blocked or whose articles were denied press publication. Those reports and the restrictions on freedom of expression reported by the Special Representative of the Secretary-General on human rights defenders in 2006 pointed to a pattern of government harassment of those who sought to express themselves.

12. Referring to question 17, he wondered whether all political parties were treated equally in the official Tunisian media, and if so, why some parties would seek to air their political views through outlets outside the country. On question 18, he quoted excerpts from the newsletter of the Arab Organization for Human Rights, in which the Tunisian League for Human Rights denounced the Tunisian authorities' two-year siege on its independent premises as being in violation of domestic laws and various international treaties ratified by Tunisia and called for it to be lifted. According to the newsletter, the authorities had banned the League from holding its national conference on two occasions and intimidated and physically assaulted League representatives, preventing them from exercising their right to freedom of assembly. Furthermore, the Government continued to obstruct the activities of independent associations and opposition parties. Nevertheless, the Committee acknowledged the fact that the Government, as stated in its written reply, had allowed Amnesty International and two opposition parties to assemble in public in Tunisia. He hoped that such a development signalled an improvement since 2006, when the Special Representative of the Secretary-General had expressed grave concern over impediments to freedom of assembly.

13. With regard to question 19, he would welcome more information on the criteria applied in declaring a meeting illegal, which, in the Government's written reply, were merely described as those specified by law. He wondered whether the meetings declared illegal over the previous five years were confined to international associations supporting political prisoners; he also wondered how many political prisoners were still behind bars. He had the clear impression that criticism of the Government was far from tolerated, an issue that had already been underlined in the Committee's concluding observations on Tunisia's fourth periodic report.

14. **Mr. Lallah** welcomed the delegation's informative report, especially the valuable information on the Berbers, but expressed regret that some of its answers to the Committee's questions, including with regard to question 20, concerning recognition and registration of the associations of human rights defenders, were unsatisfactory. Indeed, the lack of specific answers to the Committee's questions was troubling. The Committee had posed those questions legitimately, relying on the information provided by the Special Representative of the Secretary-General on human rights defenders in her report (E/CN.4/2006/95/Add.5). In the Tunisian delegation's response to the Committee's questions on the matter, the Minister of Justice had advised human rights defenders to take legal action in court to obtain official registration and recognition. He wondered whether there were associations that had fulfilled the requirements for registration; whether those associations with pending cases had been informed as to why their applications were turned down; and how long it would take for an association to become registered through the court proceeding advised by the Minister.

15. Despite the very real challenge of fanaticism that Tunisia faced, laws and governments could not handle those situations alone. The cooperation of the thinking part of society, represented by associations of human

rights defenders, was required, and alienating those potential allies against extremism would lead to a loss of confidence in the administration and provide fertile breeding grounds for extremists. He appealed to the delegation to find a prompt and effective remedy that protected the right to organize under article 22 of the Covenant.

16. **Ms. Wedgwood,** referring to the freedom of expression, said that, while she acknowledged and shared the Government's genuine concerns over incitement to violence and terrorism, she found its approach to press freedom troubling. She welcomed the statutory amendments introduced in recent years but noted that the Government might want to consider additional amendments, given that the provisions of the Tunisian Press Code might prevent journalists from voicing their opinions about the performance of government agencies. She found it unusual, for example, that the Press Code made it criminally actionable to defame not only individuals but also institutions and that it criminalized defamation of government officials in the performance of their duties.

17. Referring to the State party's reply as to whether the Organizational Act 2003-58 was compatible with article 19 of the Covenant, she noted that, while elections were an exclusively sovereign matter in the exercise of the franchise, she considered it unusual that Tunisians were prohibited from voicing their preference for a particular candidate.

18. With regard to Internet access, she wondered whether the delegation could comment on the independence of Internet service providers from the Government, as there had been allegations that Tunisia's two service providers were owned by relatives of President Ben Ali. Paragraph 286 of the country's report stated that it was becoming essential to place the Internet at the heart of a public and civic battle to control its content and availability. Although she understood the need to prevent incitement to racial or religious hatred and appreciated the tolerance that Tunisia had shown of different ethnic communities, she felt that controlling the content of the Internet, apart from the issues of pornography and incitement to violence, was not the Government's business. The Internet was the main medium of communication for the youth as well as the new form of publishing. She expressed concern over the lack of access in Tunisia to downloads from abroad that could readily be obtained in most countries.

19. She noted that the provision under the Press Code that required newspapers to employ a certain number of journalism school graduates as reporters would prevent ordinary citizens from publishing their own newspapers and thus limit freedom of speech, a consequence that Tunisia would surely not want in the long run. Finally, the requirement of a money deposit before newspapers could publish might inhibit their freedom of expression because it introduced the Government into the process at such an early stage. Noting the need for autonomy and self-regulation in the press, she pointed out that the Government might wish to rethink that policy in its next set of administrative and legislative reforms.

20. **Ms. Motoc** asked how Tunisia was dealing with the new principles introduced by the Convention on the Rights of Persons with Disabilities and how it ensured that the rights of such persons were observed.

21. **Mr. Tekkari** (Tunisia), referring to the right to a fair trial, said that it was important to consider the background to any allegations of unfairness. Sometimes, requests were made for up to 100 lawyers to attend a trial, although it was not necessarily possible to accommodate them in the physical space available. In one case, when the judge had requested that the lawyers attend in small groups, the lawyers withdrew, claiming that the trial was unfair. At the recent Soliman trial, the court had been obliged to listen to 24 continuous hours of pleadings as each of the numerous defence lawyers had spoken for as long as they wished. Yet there had still been claims that the trial was not fair. It was important to avoid mixing politics and human rights.

22. On the question as to how the courts handled cases filed by victims of torture, the Court of Cassation had made it quite clear that any statement made under torture was inadmissible. Anyone who had suffered abuse could apply to a higher court official who would bring the matter before a judge.

23. With regard to freedom of opinion, he said that both direct and indirect subsidies were available to newspapers that were in the process of being set up. No newspaper had been suspended and there was diversity in both the print and audio-visual media. Both party newspapers and the private and independent media criticised political parties. The situation might not be perfect, but progress was being made.

24. In response to a question about the closure of websites, he said that websites were only closed if they contained pornographic material or incited violence. One well-known case involved the Internauts of Zarzis: three years previously, a group of Tunisians had been arrested and accused of involvement in terrorist acts because they had learned from the Internet how to make explosives, had carried out some tests and had identified the places that they wanted to destroy. They had subsequently been released, but one of them had died soon afterwards in Somalia in a terrorist act while another had been sentenced in France in absentia for terrorist activities. The Internet basically promoted freedom but it was important to distinguish between using it for access to information and using it for terrorist purposes, as there were many abuses. Another website that had been shut down advocated suicide attacks and beheadings in Tunisia. Such sites could exert a dangerous influence on young people who could easily be lured into becoming suicide bombers.

25. Referring to question 16 of the list of issues, Mr. Khalil had mentioned 64 communications regarding 78 persons who were victims of threats or intimidation. The only journalist currently in detention had been detained not for his opinions but for the common law offence of insulting law enforcement officers. The fact that he was a journalist did not give him immunity.

26. Turning to the right to peaceful association and the Tunisian League for Human Rights, he said that the League had an internal conflict which its own bodies had been unable to resolve. In preparing for its congress, the League had violated its own rules and it was members of the League who had brought the matter to court. The congress had been cancelled, not because of any infringement of the right of association, but because a court judgement was being executed. The fact that some of those involved were close to the majority party did not give them any more rights than the others and the judge had not taken into account their political affiliations. Tunisia nevertheless considered the League to be a national asset and hoped that its members would reach an understanding so that it could take its rightful place in Tunisian civil society as a defender of human rights.

27. There were two criteria for considering a meeting illegal: meetings that were not registered in advance or those that posed a threat to public order. While the Government did not authorize meetings, it could prohibit them. The term "meeting" meant a large group of people, not a chance meeting of six people at a café. An administrative judge ruled on matters of public order. In the case of the League for Human Rights, the judge had issued a decree within three days. Some substantive matters might take longer, but sometimes the accused persons intentionally used delaying tactics. The delays helped them to portray themselves as victims, which gave them certain advantages.

28. Turning to the issue of political prisoners, he said that no one in Tunisia was in prison because of their political views or peaceful political acts. Some prisoners were members of political parties, but they had committed common law offences and were not political prisoners. Drug traffickers belonged to all kinds of political groups. Some criminals were members of violent terrorist movements. That did not mean that they were political prisoners. All prisoners could exercise all of their rights, including being considered for conditional release or clemency, regardless of their political views and affiliation.

29. On the recognition of associations, he said that if an application for registration of an association was rejected, the matter could be brought before an administrative judge. There had been several recent cases in which the judge had revoked the Ministry of the Interior's decision to reject an application after reviewing the reasons given by the Ministry of Justice for the rejection. In one case, the reason had been that the association was going to provide a public service. The judge had decreed that the public administration did not have a monopoly on providing public services and that an association was also entitled to do so.

30. Responding to a question about the Press Code, he noted that Tunisian law was based on Roman and French law and was therefore more formal and less liberal than other systems based on common law. Defamation, as defined in the Press Code, was not mere criticism, but an attack on the reputation of an individual. If it was claimed that an individual had provided a bad service, that was a matter of opinion, but claiming that he was a thief could be defamation and could entail criminal penalties. In response to a question about the electoral code, he said that an electoral campaign took place during a specific time frame established by law. Individuals were entitled to put forward their points of view, but not to carry out a parallel campaign to incite people to vote a certain

way. That was the case for both legislative and presidential elections.

31. **Mr. Romdhani** (Tunisia) said it was not true that the State press agency, Tunis Afrique Presse, had a monopoly on information. The agency offered subscription-based news services to newspapers and other media, but they were not obliged to publish its dispatches. Opposition leaders and NGO heads enjoyed unrestricted freedom of expression and were given prominent exposure in independent newspapers. While acknowledging that the process of building a free media was ongoing, he said the notion that there was a gap between the theory and practice of freedom of expression was unfounded.

32. Turning to access to information via the Internet, he said that Tunisians had full and unfettered access to the websites of international human rights organizations such as Amnesty International and Human Rights Watch. However, it was important to understand that those who misused the Internet were in fact abusing the right of advocacy. Commenting on the allegations that the President of Tunisia exercised control over Internet service providers (ISPs), he said that there were 12 independent ISPs operating in the country and urged the experts to check the facts for themselves.

33. As for the provision requiring newspapers to hire journalism school graduates as reporters, he saw no reason why such a requirement would be detrimental to the freedom of expression. The requirement was merely a measure that had been taken in order to ensure that a sufficient number of jobs would be available for journalism school graduates.

34. **Mr. Tekkari** (Tunisia) noted, in response to a question on the role of civil society, that civil society organizations had an important role to play and that the Government had made every effort to involve those organizations in its work. The report clearly reflected the involvement of such organizations and the Government's adherence to the Committee's recommendation on the protection of human rights.

35. Tunisia was a signatory to the Convention on the Rights of Persons with Disabilities and its Optional Protocol. In that connection, numerous affirmative action measures had been taken, including, inter alia, requiring all public buildings to be accessible to disabled persons. Special, non-fee paying schools for the physically and mentally disabled had been established. Initiatives had also been undertaken with a view to ensuring the full integration of disabled persons into society and to providing them with employment. To that end, the Civil Service Act provided that persons with disabilities should constitute 1 per cent of all those recruited for employment in the civil service.

36. **Mr. Ayed** (Tunisia) said that under the Education Act of 2002 the Government was obliged to provide for the exercise by disabled children of their right to education. In that connection, special arrangements had been made to integrate such children into regular classrooms. In addition, class size was restricted to 15 children in order to allow teachers to devote their attention to all pupils equally. There were also specialized schools for disabled persons with needs that could not be accommodated in ordinary schools.

37. **Mr. Bismuth** (Tunisia) said that many persons with disabilities were productive members of the workforce.

38. **The Chairperson** welcomed the progress that had been made by the State party with respect of the protection of human rights and the fact that international instruments had primacy over domestic law.

39. In other countries, the Head of State did not preside over the judiciary. While assurances had been offered that the President of the Republic was merely the titular head of the High Council of the Judiciary, the Committee was nonetheless concerned by the implications that such an arrangement might have for judicial independence.

40. Turning to the State party's counter-terrorism laws, he said that there was a danger that those laws could threaten human rights. The use of anonymous judges and witnesses, while in itself not a violation of the Covenant, nonetheless had the potential to restrict some of the guarantees that the Covenant provided. Thus, it was incumbent on the State party to ensure that such anonymity did not affect the full exercise by the accused of the right to self-defence.

41. The Committee, while welcoming the steps that had been taken towards abolishing the death penalty, noted with concern that the State party intended to continue imposing the said penalty, even though it had no intention of actually putting anyone to death. Yet for a prisoner condemned to death, the mere threat that he

might be executed was degrading treatment, regardless of any assurance to the contrary offered by the State.

42. The Committee was pleased with the comprehensive information that had been provided regarding the prosecution of police and corrections officers accused of torture or cruel and inhumane treatment. Nonetheless, the Committee remained concerned by reports and specific accusations it had received that the State party continued to practice torture and looked forward to receiving more detailed information in that regard. The Committee also intended to keep a close watch on legal cases centring on freedom of expression and wished to receive more information in respect of journalists who had been imprisoned for the performance of their duties.

43. Freedom of assembly and association were subject to regulations that could result in the violation of rights enshrined in the Covenant. Although meetings could be held without obtaining official authorization, the right of assembly could nonetheless be curtailed under the law. He wished to know more about the security considerations and other criteria that were applied by the courts when deciding whether a meeting should be prohibited.

44. **Mr. Tekkari** (Tunisia) thanked the Committee for a fruitful dialogue recalling the concerns raised over the fact that the President of the Republic was the head of the High Council of the Judiciary, he said that similar arrangements existed in other countries, including, for example, France, Italy and Morocco. However, such arrangements had no effect whatsoever on judicial independence because the Head of State was merely performing a ceremonial role.

45. Turning to the question of torture, he said that his Government would invite to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Tunisia and would continue to honour its agreement with Human Rights Watch with respect to prison visits. Noting that he looked forward to receiving the Committee's recommendations he stressed that his country would continue to move forward vigorously on human rights issues.

The meeting rose at 5.05 p.m.